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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**FEDERAL TRADE COMMISSION,**

Plaintiff,

v.

**RWJ BARNABAS HEALTH, INC.**

and

**SAINT PETER'S HEALTHCARE  
SYSTEM, INC.,**

Defendants.

HON. \_\_\_\_\_

No. \_\_\_\_\_

**NOTICE OF MOTION**

PLEASE TAKE NOTICE, that on June 3, 2022, James H. Weingarten, Senior Trial Counsel for the Federal Trade Commission, as attorney for Plaintiff, will apply to this Court, pursuant to Local Civil Rule 5.3(c), for an order to file Plaintiff's Complaint for Temporary Restraining Order and Preliminary Injunction Pursuant to Section 13(b) of the Federal Trade Commission Act temporarily under seal.

In support of this Motion, Plaintiff respectfully refers the Court to the Affidavit of James H. Weingarten submitted herewith and asks that the Court decide this Motion on the papers submitted, without oral argument, pursuant to Federal Rule of Civil Procedure 78.

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HON. \_\_\_\_\_

No. \_\_\_\_\_

**MOTION TO FILE COMPLAINT TEMPORARILY UNDER SEAL**

Pursuant to Federal Rules of Civil Procedure 5.2 and 26(c) and Local Civil Rule of the United States District Court for the District of New Jersey Rule 5.3, Plaintiff Federal Trade Commission (the “Commission”) moves for permission to file the Complaint for Temporary Restraining Order and Preliminary Injunction Pursuant to Section 13(b) of the Federal Trade Commission Act (the “Complaint”)

temporarily under seal and to file a redacted version of the Complaint for the public record.

The Commission has filed this action seeking a temporary restraining order and preliminary injunction to enjoin Defendant RWJ Barnabas Health, Inc. (“RWJ”) from acquiring Defendant Saint Peter’s Healthcare System, Inc. (“Saint Peter’s Healthcare”) (the “Acquisition”), pursuant to Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. § 53(b). The Commission has both good cause and a compelling reason to file an unredacted version of the Complaint temporarily under seal.

Before bringing this action, the Commission conducted a non-public investigation into the Acquisition. During that investigation, the Commission obtained discovery from Defendants that is relevant to the Complaint and which Defendants designated as confidential. Before the Commission publicly discloses such information in a law enforcement proceeding, the Commission must afford Defendants an “opportunity to seek an appropriate protective or *in camera* order.” 16 C.F.R. § 4.10(g); *see also* 15 U.S.C. § 57b-2. Thus, even though there is a “strong presumption” in favor of access to civil proceedings, the Commission requests that this Court seal certain portions of the Complaint temporarily for a period of fourteen days pursuant to L. Civ. R. 5.3 to allow Defendants an

opportunity to seek an order from this Court to permanently seal the unredacted Complaint. *See Miller v. Indiana Hosp.*, 16 F.3d 549, 551 (3rd Cir. 1994).

This application is narrowly tailored to protect the public's interest in access to public records and policies favoring disclosure. The Commission requests only temporary relief to provide Defendants an opportunity to move to permanently seal the select references currently temporarily under seal if they so desire and, in the interim, the Commission will file a redacted version of the Complaint for the public record.

For the foregoing reasons, the Commission respectfully requests that the Court grant this Motion and file the Complaint temporarily under seal for a period of fourteen days.

If, after fourteen days, no party has filed a motion to seal, the Commission respectfully requests that the Court direct the Clerk to lift the temporary seal and place the unredacted Complaint on the public record.

Dated: June 3, 2022

Respectfully submitted,

s/ James H. Weingarten

James H. Weingarten

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Rohan Pai

Ryan T. Andrews

Emily Blackburn

Alex Bryson

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